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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,459	08/27/2003	Jerome Fournier	979-032	7120

7590 12/12/2006

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EXAMINER

VARGOT, MATHIEU D

ART UNIT PAPER NUMBER

1732

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/650,459

Applicant(s)

FOURNIER ET AL.

Examiner

Mathieu D. Vargot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has amended the claims to recite that it is a **liquid** preform which is drawn. However, a careful reading of the PG Pub corresponding to the instant specification does not show any support for this recitation. Clearly, applicant can support forming the preform as a liquid and that the drawing of the preform is not correlated with the rate of its production (paragraph 24 of the PG Pub). Also, as pointed out by applicant in the response, paragraph 64 recites similar subject matter. However, these paragraphs do not disclose that the preform is a liquid when it is drawn. Applicant is requested to specifically point out where in the specification support exists for drawing a "liquid preform" or delete such language from the claims. Also, it should be kept in mind that the term "drawing", as commonly used in the art, means the stretching of a thermoplastic to reduce its cross sectional area. While the thermoplastic may be heated to render it fluid or malleable, the thermoplastic would not be heated to a point where it is melted or in a liquid state. Hence, it would be unclear how the term "drawing" would apply to a liquid or how a liquid would be drawn in any conventional sense. A liquid simply does not have the structure to allow itself to be

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drawn. In short, either the claims as currently set forth are not supported in the specification as filed or they are not described in a manner which would allow one of ordinary skill in the art to believe that applicant had possession of the claimed invention.

2.The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by PCT Publication WO 00/56777 (see Kim et al US Patent 6,563,994) for reasons of record as set forth in paragraph 1 of the previous action noting the following.

The rejection has been maintained since the instant claims do not call for any structure not shown in the applied reference. Ie, it is submitted that PCT –777 inherently would be able to perform the instant method.

3.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT Publication WO 00/56777 (see Kim et al US Patent 6,563,994) for reasons of record as set forth in paragraph 2 of the previous action.

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4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT Publication WO 00/56777 (see Kim et al US Patent 6,563,994) in view of Perrin et al for reasons of record as set forth in paragraphs 3 and 4 of the previous action.

5. Applicant's arguments filed October 2, 2006 have been fully considered but they are not persuasive. Applicant insists that the instant invention includes forming the preform in the liquid state and then drawing same in such a state. While the former is clearly supported—and in fact also taught by PCT –777 it is submitted that support for the latter is lacking. In addition, it is not clear how the instant drawing of a liquid preform is actually done, nor has applicant provided any teaching in this regard. Hence, it is maintained that the instant drawing is no more than what is shown in the primary reference, or taught in the combination as applied. Applicant argues that the gist of the instant invention is to separate the formation of the preform from the drawing process. Well, PCT –777 also clearly does this. The fact that PCT –777 chooses to solidify the preform prior to drawing does not impart patentability to the instant claims. A drawing operation would require that the fiber being drawn—or some portion thereof-- is fluid at least to the extent that it can be stretched. Applicant has not claimed any structure or steps beyond that taught in the references—other than an unsubstantiated claim to drawing a liquid preform-- and hence the claims must stand rejected.

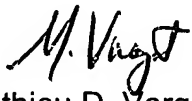
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
December 8, 2006


Mathieu D. Vargot
Primary Examiner
Art Unit 1732

12/8/06